

Sales, Delivery and Payment Conditions of Villforth Siebtechnik GmbH

I. Area of Application

All our deliveries and work services, including those of future transactions, are solely accepted under the conditions mentioned hereafter. Divergent terms of trade of the customer are not obliging to us, even if we do not explicitly contradict. With the order, the customer accepts the sales, delivery and payment terms of Villforth Siebtechnik GmbH as a business basis. The customer provides the acceptance of the delivery and payment conditions of Villforth Siebtechnik in writing or by telex. Until receipt of this acceptance, Villforth Siebtechnik is not obliged to perform.

II. Offers

1. Our offers are always nonbinding. A contract only becomes effective upon our written confirmation or by telefax confirmation of order.
2. Supplementary agreements, additions and alterations, as well as agreements repealing this clause of writing mentioned in section I and II, need our written confirmation.

III. Pattern, Drawings, Drafts

1. Samples of material, form and fabric, reproduction drawings and outlines are only roughly decisive for the execution.
2. The purchaser is supposed to examine the samples provided carefully upon all essential and demanded qualities. All patterns are then to be returned to us with written consent. Corrections are to be mentioned in writing if necessary. By accepting our execution forms, only these execution documents become the basis of the contract. Any mistakes or errors after accepting our finishing presentation are at the sole responsibility of the purchaser. If the released templates deviate from the order, we are not liable for such deviations.
3. The seller is released from any responsibility and liability which can appear from the fact that the buyer has indicated incomplete or inaccurate information about sizes or other technical data. The ordered machine clothing is produced in a manner that after warm up/start on the machine under normal tension, the fabric will be within the specified minimum and maximum length.
4. Samples are to be considered as type samples. The seller is not taking any guarantee or liability for an absolute equality with the sample when delivered. We reserve ourselves the right for minor alterations. Only essential deviations of the sample, which will make a usage of the product in the contract manner impossible, can be accepted as shortcoming.
5. Goods ordered, which have been manufactured or are in the process of being manufactured, cannot be annulled by the customer anymore without complete compensation. The purchaser is aware that all products are independent, tailor made makings which are being manufactured according to the purchaser's orders. Therefore any resale of the product in progress or finished to another customer is impossible.

IV. Deliveries

1. Delivery is being made only in accordance with our delivery conditions stated in our Quotations, Pro Forma Invoice or our Order Confirmation. Incoterms – latest edition – are considered agreed to. Packaging, means of transportation and transporting routes are being determined according to one's best judgement. Special requests of the customer regarding packaging and transport can be taken against a special calculation. Transporting the goods is always, even when delivering without freight charges, at the risk of the purchaser from the factory. An additional insurance for transporting the goods can be obtained through us for the purchaser, at his own expense. An insurance obligation on our part does not exist.
2. Delivery dates are only binding if they are confirmed by us in writing.
3. The delivery period begins only when the customer has completely submitted the documents to be provided by him.
4. In case of delay in delivery, the purchaser always grants us a reasonable grace period. If this grace period is not adhered to, the purchaser can withdraw from the contract after consultation with the seller. Claims for damages of any kind are basically and generally excluded, unless they are based on intent or gross negligence of our legal representatives, staff or our vicarious agents.
5. Operational disruptions, also among our suppliers, due to general shortage of raw materials and energy, bottlenecks, official interventions, strikes, mobilizations, lockouts, fires or other cases of force majeure beyond the control of the seller, release us from compliance for agreed delivery dates and any liability and damage claims.
6. If the scheduled delivery of the goods is delayed due to reasons for which the orderer/buyer is responsible, we shall be entitled to charge the goods and charge the buyer additional storage fees amounting to 5% of the invoice amount for each month commencing. For delays of more than six months, we are entitled to store the goods at the expense of the customer at a third party. If the purchaser subsequently changes the scope or date of the order placed with us, we are entitled to charge the resulting additional cost.

7. If reasonable for purchaser partial deliveries are permitted.

8. Any packaging of fabrics of corrugated board for transport reason, including board packing roll, are to be considered non-returnable. Proper disposal of the packaging materials - each according to the country-specific regulations - is guaranteed by the client. It is impossible for us to take this packaging back. This packaging has been produced by companies belonging to RESY-GmbH, which guaranty taking back these products.

Wooden boxes and wooden or aluminum poles as well as metal and plastic pipes remain in the possession of the seller and have to be returned in the transporting box. Return will be handled in the same matter as full delivery, freight charges for returning are at the expenses of the purchaser. (Deliveries going overseas will be handled individually).

9. The call-up date for the ordered fabrics must be announced no later than 6 months after the order date. The ordered sieves must be retrieved no later than 9 months from the date of order. After that automatic delivery will take place.

10. The consignment must be inspected immediately upon arrival. Defects recognizable on the shipment are to be reported to us immediately. Until the clarification of the defect, the fabric is not to be used and kept at our disposal. In the event of damage in transit, the last carrier is to be held immediately liable in writing. Immediately request a signed statement of facts.

V. Prices

1. Our prices are understood without taxes.

Handling charges, fees, taxes and expenses for certificate of origins, invoices for consulates etc. which are being raised outside the Federal Republic of Germany, are always at the expenses of the purchaser.

2. Should wages, material or other cost increases occur between the receipt of the order confirmation and the day of delivery, we shall be entitled to adjust the prices in accordance with the demonstrable cost increases.

3. If the buyer subsequently changes the scope or date of the order placed with us, we are entitled to charge the resulting costs.

VI. Payment Conditions

1. All agreed payment terms apply from date of invoice. The customer will receive the invoice electronically or by telex on the day the invoice is issued. Invoices must be credited to us on the due date to meet the deadline.

2. Bills of exchange are only accepted as means of payment by special agreement and without discount. Interest and costs for discounting or collection are borne by the client; they are payable immediately. We are not liable for the timely presentation, protest, notification and return.

3. Without prejudice to further claims, the principal must pay interest on default (9%) in the event of late payment. The proof of a lesser damage lies with the customer. The customer owes at least the legal interest according to § 288 Abs. 2 BGB. The assertion of further damage caused by default remains reserved to us.

4. If, after the order confirmation, a material deterioration of the buyer's financial circumstances becomes known, we are entitled to demand immediate payment of all outstanding invoices, regardless of due date and advance payment for goods not yet delivered. With regard to goods not yet delivered, we are entitled to a right of retention until complete settlement of all claims / invoices. This also applies if the buyer makes no payment despite a reminder.

VII. Compensation / Right of retention

1. The client can only set off against undisputed or legally established, statute-barred claims. Retention rights are excluded.

2. The rights of the buyer according to §320 BGB remain unaffected.

VIII. Retention of title

1. All rights of the goods remain vested in the seller until full settlement has been effected (payments by cheque or bill of exchange until their redemption). Purchaser is responsible for insuring our property or joint property effectively against destruction, fire, loss, damage or any other interference. Any claims against insurance companies revolving from this are herewith transferred to us.

2. In case of a connection of our goods with other goods we are entitled to a joint ownership of the new matter, according to the extent of our delivery price. The client hereby assigns his claim, limited to ours Delivery price in addition any delay costs, to us.

3. The buyer is only entitled with our consent to sell the goods owned or co-owned by us. In case of a sale of our property or co-ownership, either with or without our consent, the claim is against the purchaser in the amount of our delivery price, plus any default costs, assigned to us. The assertion of our ownership rights and compensation claims are reserved.

4. If the goods in our ownership are impound or confiscated at the purchaser, the purchaser is obliged to object to such measures immediately with reference to our rights and to notify us immediately, submitting all documents. The costs incurred by the buyer.

IX. Ownership of templates. Sketches. Designs

Drawings, sketches, patterns, models, patterns or similar items required for the execution of our order shall remain our property and possession, even if invoiced separately.

X. Warranty

1. Our products are being manufactured according to our standards in production and quality determined by contract. We guarantee a quality according to our samples. We refer to the currently operative DIN regulations in regards to measurable test for comparison.

2. The purchaser is obliged to check the goods immediately upon receipt on its formal accordance and completeness. Diminished, extra or wrongful deliveries, as well as any possible defaults can only be queried in writing within one week after receipt of the goods. Otherwise the subject of delivery is considered as approved. Non-obvious defects can only be claimed within 12 months. In the case of complaints, the client must submit all documents immediately. If the purchaser is a businessman for the purposes of the HGB and the contract belongs to the enterprise of his trade, in addition §§ 377,378 HGB apply. The objection has to take place under adding of photographs and samples of the reprimanded subjects of delivery.

3. Our products are manufactured by us according to the appropriate DIN regulations. The input material used was also manufactured in accordance with DIN regulations. Decisive for a performance guarantee is an operating condition of the respective machine, which corresponds to the average standard. If, under the same conditions, a shorter service life than the average service life is determined, which is attributable to unsuitable product quality, all relevant documents and pieces of evidence must be sent to us immediately. The commissioning of our product at the buyer is to be informed to us immediately.

4. In the case of a complaint, the buyer allows the seller to enter his premises and to check and measure the delivered product and the machine. The inspection and the measurement may also be carried out by an expert named by the seller. Liability is excluded in principle for any damage caused during the performance of verification and measurements on the machine.

5. For complaints accepted by us in writing we are obliged to repair or replace. In this case, we also bear the costs for packaging and shipping with the following restrictions: Replacement deliveries will be delivered only CPT airport, CFR seaport, or deliveries by road DAP customer delivered at our choice. Customs clearance costs will not be taken over. In the case of failure or delay of the rectification and / or replacement delivery, the client may, at his discretion, demand a reduction of the remuneration or cancellation of the contract. Any further liability for damages that have not occurred on the delivered item itself is excluded.

If a recourse claim comes into force, the fabric will be charged, unless otherwise agreed, "Pro Rata Temporis", in the maximum case up to the agreed purchase price. Downtime costs, production losses and consequential damages are excluded and cannot be accepted.

6. For deviations in the quality of the material used in addition to the DIN standards, we are liable, as far as they were not recognizable for our material testing due to the applied and industry-standard testing technology, only up to the amount of our own claims against the supplier. We are exempt from liability if our claims against the supplier cannot be enforced.

7. Modifications to the machine made from the day of the assessment to the use of the fabric and adversely affecting the fabric, as well as damages caused by external forces or outside influences are excluded from the guarantee.

XI. Liability

Unless otherwise agreed in individual cases, we are liable for damages for whatever legal reason, only in case of intent or gross negligence.

XII. Validity of German Law

The legal relationships between seller and the buyer is exclusively subject to the law of the Federal Republic of Germany under the express exclusion of the UN Sales Convention.

XIII. Final Clauses

1. Agreements deviating from these conditions of delivery and payment are only valid if they have been expressly confirmed by us in writing or by telex.

2. Place of performance for all claims arising from the contractual relationship and jurisdiction for any disputes is Reutlingen. For deliveries within Germany, this only applies if the customer is registered in the commercial register or other registers of companies.

3. Any ineffectiveness of separate regulations does not touch the effectiveness of the remaining regulations.